1949

File No. O. Oil Enquiries 49

Legal Department

G. **BRANCH**

Subject:— Opinion on the oil Enquiries (Control of Prices) Order, 1948

1949

File No. O. Oil Enquiries/49

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C O N T E N T S.

Legal Department File No. O.Oil Engines /49.

S.R.No. R.I. /O.No.	Subject.	pages.
	Opinions under the Oil Engines (Control of Ricees) Order, 1948.	
1. G/643 4-11-49 717-Confl 21-11-49 G/678 2-12-49	Whether Mr. MalaidasGarbardas Patel of Gamdi can be prosecuted for breach of condition 4 of the undertaking given by him to the Kaira District Rural Development Board, Nadiad in addition to his prosecution under clause 3 for selling engine for a higher price than the Control Price andunder Govt. order No. 2088/IF-1 dt. 24-5-48 for not reporting the sale to Government.	1 -6
2. 688-Confl. 3/11/49	Whether the case of balck-marketing in oil Engines Fakirbhai Jivabhai should be withdrawn in view of the letter of the Agricultural Engineer to Govt. written to one Shri G.J.Patel nforming him that there was no Govt. Control on oil engines, produced by the defence.	7 -10
		(Copies not made)

C.G.R./27-7 /C 5

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Office of the R.L.A.

The question for consideration is whether Mr. Kalidas Garbhadas Patel who is to be prosecuted for breach of i) Clause 3 of the Oil Engines (Control of Prices) Orders, 1948 and ii) of the previsions of Government Order, Agriculture and Rural Development Department No. 2028/A/F-1, dated 24th May 1948, could also be prosecuted ~~for~~ for the additional offence of committing a breach of the condition 4 of the agreement executed by him.

In the first instance it is pointed out that prosecution of Mr. Patel for breach of clause 3 of the Oil Engines (Control of Prices) Order, 1948 is not feasible as he is neither an importer nor a dealer as defined in the said Order.

In this case the engine was released to Mr. Patel on the recommendations of the District Rural Development Board, Kaira and Mr. Patel has committed a clear breach of the agreement executed by ~~them~~ him with the Board that he would not sell or dispose of the Engine without obtaining ~~previous~~ previous permission of the Board. The agreement or the undertaking is non-statutory and no penalty is provided therein in case of any breach. The agreement cannot be in any way related to the Bombay Essential Commodities and Cattle (Control) Act, 1946. A prosectution for cheating the Board under section 415, Indian Penal Code is notlikely to succeed, as ~~x~~ it will be difficult to establish the element of dishonesty at the initial stage.

o/c

Sd/- P.M.L.

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Remembrancer of Legal

U.R.No. A/F.D. No. G/643
dt. 4-11-48

Office of the R.L.A.

The extended part of the definition speaks of a person who holds stocks of Agricultural machinery which are not being used by him. There is nothing ultra vires in this extended part. Nevertheless it must take its colour from the main definition. In the special facts of the case Mr. Kalidas Patel who had purchased two engines for installation on the well in his ~~field~~ field but subsequently disposed them of cannot be said to be holding stocks of Agricultural machinery. It is for that reason that he was not held, in the R.L.A's opinion No. G/643 dated the 4th November 1949, to be a dealer.

Sd/- P.a.l.

21/11

Remembrancer of Legal Affairs.

U.R. to A. & F.D. 717-Confl. dated 21st Novmberr 1949.

Office of the R.L.A.

These papers may now be filed with the previous papers.

).G.R./27-7/C 5

Office of the R.L.A.

Under Government Order, Agriculture and Rural Development Department No. 2068/A/F-1, dated 24th May 1948, a person who sells oil engine in my any month is required before the 15th of the Succeeding month to furnish to the Secretary, Agriculture and Rural Development Department a full and correct statement in the form appended to the order of the sales made by him. Mr. Patel failed to furnish such information in respect of the engines sold by him and he can be successfully prosecuted for breach of the said Order.

o/c Sd/- P.M.L.

2/12

Remembrancer of Legal Affairs.

U.O.R. to A.& F.D.No. G/678, dated 2nd Dec. '49.

C.G.R. /27-7 /C 5